

Minutes of the Special and Regular Meeting of June 27, 2006

One Twin Pines Lane, Belmont, California

SPECIAL MEETINGS

CLOSED SESSION - 5:45 P.M.

- A. Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 concerning property located at 500-510 Harbor Boulevard, Belmont, CA.
- B. Conference with Legal Counsel pursuant to Government Code Section 54956.9, potential litigation: One Case.
- C. Public Employee Performance Evaluation, City Attorney, pursuant to Government Code section 54957
- D. Conference with Labor Negotiator, Maureen Cassingham, pursuant to Government Code Section No. 54957.6: BPOA
- E. Conference with Legal Counsel, Anticipated Litigation. Significant exposure to litigation pursuant to Government Code Sec. 54956.9(b). One case (to be continued following adjournment of regular meeting)

Attended by Councilmembers Feierbach, Warden, Dickenson, Lieberman, Mathewson, Interim City Manager Cassingham (except Item C), City Attorney Zafferano, Lee Rosenthal, Redevelopment Counsel (Items A and B), Finance Director Fil (except Item C), Community Development Director de Melo (Items A and B), Police Chief Mattei (Item D), Interim Human Resources Director Sam (Item D), Fran Buchanan (Negotiator, Item D). City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:40 P.M., these special meetings were adjourned.

Terri Cook

City Clerk

Meeting not tape recorded or videotaped.

REGULAR MEETING

CALL TO ORDER 8:23 P.M. (Note: Special Fire Protection District and Redevelopment Agency Meetings held prior)

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Dickenson, Warden, Mathewson

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Cassingham, City Attorney Zafferano, Community Development Director de Melo, Public Works Director Davis, Police Chief Mattei, Finance Director Fil, Interim Human Resources Director Sam, Information Services Manager Harnish, Interim Parks and Recreation Director Bridges, City Clerk Cook.

REPORT FROM CLOSED SESSION

Mayor Mathewson noted that Closed Session Item E would be considered following adjournment of the regular meeting, and that direction had been given but no action taken on the remaining Closed Sessions held earlier.

PUBLIC COMMENTS AND ANNOUNCEMENTS

John Violet, Friends of the Belmont Library, announced the schedule for the upcoming speaker series at the library.

Paul Graffagnino, Belmont resident, stated that early-morning construction activity had recently taken place at Notre Dame Elementary School in violation of the permitted hours. In addition, construction equipment is being staged on neighboring streets. No permits have been issued for this work. He commented that it should be a high priority for the school to be a good neighbor.

Police Chief Mattei stated that the Police Department made contact with the contractor after the complaint was received. A stop work notice was issued following the second complaint. Community Development Director de Melo noted that the contractor was in the process of obtaining appropriate

permits. He also noted that the permit fee would be doubled since they were not sought prior to the commencement of work.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Lieberman stated that he was recently awakened at 3:30 a.m. by Allied Waste trucks at Notre Dame de Namur University.

City Engineer Phalen responded that Allied Waste is in compliance with its franchise agreement, since the University is outside the 200-foot residential radius, and early morning pickup is permitted. They are working to change the route, but service to the University needs to be outside peak time periods. Complaints regarding Allied Waste should be reported to the Public Works Department.

Councilmember Dickenson stated that the Friends of the Belmont Library recently installed new board members.

Mayor Mathewson made the following announcements: 1) the Farmer's Market would be holding a special event on July 2nd to celebrate Independence Day; 2) the American Cancer Society's Relay for Life would be held at Carlmont High School on July 8 and 9; 3) Concerts in the Park continue on Sunday afternoons through the end of July; 4) a citizen has requested that the City Council look into banning leaf blowers; 5) the Chamber of Commerce recently installed new board members; 6) the City of Belmont recently hosted the monthly Council of Cities meeting, wherein City Attorney Zafferano was the keynote speaker; and 7) a ribbon cutting for the new Belameda Park was held on June 24th.

AGENDA AMENDMENTS

Mayor Mathewson stated that Item 4-A (Belmont Library/Belameda Park Project - Final Monthly Update and Resolution Accepting the Work) would be removed for separate consideration, as requested by a member of the public.

CONSENT CALENDAR

Acceptance of Written Correspondence: 1) Received June 9, 2006, from the PUC, Notice of Application regarding PG&E's 2007 Energy Resource Recovery Account.

Approval of Resolution 9792 Accepting Work, Approving As-Built Plans, and Authorization to Issue a Notice of Substantial Completion for the Alameda de las Pulgas Creek Stabilization Project, Casey Construction Inc., City Contract Number 419B

Approval of Resolution 9793 Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$230,000, Approving a Construction Contingency not to Exceed \$23,000, and Authorizing the City Manager to Execute a Contract for San Juan Pump Station Stabilization Project, City Contract Number 452.

Approval of Resolution 9794 Modifying the Planning Commission decision regarding a Conditional Use Permit for 522 El Camino Real (McDonald's).

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, the Consent Calendar was unanimously approved, as amended, by a show of hands.

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Belmont Library/Belameda Park Project - Final Monthly Update and Resolution Accepting the Work, Approving As-Built Plans and Authorization to Issue Notice of Completion for the Belmont Library/Belameda Park Project to Gonsalves & Stronck Construction, City Contract Number 464.

John Violet, Friends of the Belmont Library, stated that since this was the final monthly report and acceptance of the new library project, he wanted to acknowledge Finance Director/Project Manager Thomas Fil, and Assistant Project Manager Nawel Voelker for their efforts on behalf of this project. He noted their work for the new library was over and above their regular workload.

Councilmember Feierbach stated she received correspondence from a member of the Belmont Mother's Club citing difficulties regarding pedestrian access in the area of the new library.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, and unanimously approved by a show of hands to accept the Belmont Library/Belameda Park Project Final Monthly Update, and to approve Resolution 9745 Accepting the Work, Approving As-Built Plans and Authorization to Issue Notice of Completion for the Belmont Library/Belameda Park Project to Gonsalves & Stronck Construction, City Contract Number 464.

HEARINGS

Public Hearing to Consider a Conceptual Development Plan (CDP) Amendment and Tentative Parcel Map (Lot Split) for Notre Dame High School & Sisters Province Center at 1540 Ralston Avenue (continued from April 25, 2006).

Community Development Director de Melo stated that concerns expressed at the April 25th hearing have been addressed in the staff report, and information regarding the high school's 1999 project is also included. He noted that there are two actions required for approval: 1) amendment to the Conditional Use Permit, and 2) approval of the minor subdivision.

In response to Councilmember Feierbach, City Attorney Zafferano explained that this is not a variance. Standards applied to Planned Developments (PD) are not applied in other zoning districts. This property does not fit into the City's three zoning district categories. An amendment to the Conditional Use Permit is allowed, but the City Council is not required to grant it.

In response to Council questions, Community Development Director de Melo confirmed that there is an easement agreement on file between the entities. He explained the development standards that were amended with the 1999 project, wherein parking and floor area ratio were addressed. He clarified that the overflow parking agreement between the entities runs with the entire 11 acres, which would require an amendment if a change were desired. The parking agreement is binding and runs with the land, regardless of the owner.

Stephen Wilson, on behalf of the Applicant, outlined the issues raised during the last hearing, which have been addressed in their recent letter, included with the staff report. He noted that financing issues are driving the need for this application. He is in agreement with the CDP and Detailed Development Plan (DDP) analysis provided by staff. Access issues are addressed in the existing PD conditions. Notre Dame High School has been holding monthly discussions with neighbors, and the current application request has been addressed during those meetings. There is a nexus between senior housing and the educational mission of the Notre Dame campuses. If another entity were to purchase the property, a new CDP and DDP would need City Council approval. The easements are in perpetuity and are part of the CDP and DDP, and cannot be rescinded without Council approval. It is unlikely the City would approve any change to the easement, since the Sisters' residence is land-locked.

Mayor Mathewson reopened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Warden, the Public Hearing was unanimously closed by a show of hands.

In response to Council questions, Mr. Wilson clarified that should there be fewer Notre Dame Sisters to occupy the residence, it is likely that Sisters from other orders would be invited to reside there. The Sisters of Notre Dame continue in their commitment to their educational mission.

Councilmember Feierbach stated that the value of the residential and educational mission is important. She noted that the easement can be changed by future City Council action.

In response to Councilmember Warden, City Attorney Zafferano stated that the applicant has made an important statement in its letter regarding the educational mission, which should put any future owner on notice.

Mr. Wilson responded that this property ownership is not only governed by civil law, but Canon law as well, which is directed from Rome.

Councilmember Feierbach commended staff for working through the issues with the applicant, and stated she could support the application.

Council concurred that it was able to support the application.

Mayor Mathewson noted that the Council has an obligation to look to the future when considering applications such as this one.

Community Development Director de Melo stated that some minor modifications needed to be made to the ordinance language, and this would come back for final approval on the next agenda, should this application be approved. He outlined the amended language.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, an Ordinance amending a Conceptual Development Plan (CDP) Amendment and Tentative Parcel Map (Lot Split) for Notre Dame High School & Sisters Province Center at 1540 Ralston Avenue was unanimously approved, as amended with additional language as outlined, by a show of hands.

Continued Public Hearing to consider an Ordinance amending Article VIII, Section 15-100 et seq., of the Belmont Municipal Code (Noise Ordinance & Construction Activity), continued from March 14, 2006 (item to be continued to 7/11/06).

Community Development Director de Melo stated that the noise ordinance subcommittee is continuing to meet to refine the language in the amended ordinance, including those addressed by a resident. He requested this item be continued.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Lieberman, the Public Hearing was unanimously continued to July 11, 2006.

OLD BUSINESS

Automated Red Light Photo Enforcement Project – Update

Police Sergeant Pat Halleran stated that three vendors had been contacted and presentations made to staff regarding the red light photo enforcement project. All three vendors have Bay Area experience, and all three companies' equipment function essentially the same. Citations for red light violations are governed by the Vehicle Code. The courts have not taken any issue with the red light photo enforcement. He stated that one vendor, Nestor, is being recommended by staff due to its low visual impact.

He reviewed the costs for the program and noted that the vendor determines placement feasibility based on potential cost recovery. He noted this is a cost-neutral program. The equipment is owned and maintained by the vendor. He described options that can be exercised if fees do not cover the costs. He clarified that a public hearing is required prior to the execution of a contract. He noted that the jurisdictions using Nestor have been very happy, and additional contracts have been let.

In response to Council questions, Sergeant Halleran stated that there are many variables in calculating revenue from the program. He noted that a base cost is used for comparison purposes. He described the minimal equipment needs of the vendor, and clarified that no equipment can be attached to State poles or light standards.

Councilmember Warden stated that the equipment can be obtrusive and not aesthetically pleasing. He is concerned about additional clutter at intersections, and would like to see more site specific information for Belmont. Sergeant Halleran stated that the vendor would be willing to make a presentation to the City Council.

In response to Council questions, Sergeant Halleran stated that there are no up-front costs. There is usually a positive revenue stream, but cameras can be moved if citations are reduced, which is addressed in the contract. He noted that some cities did not do comparative analysis before deciding on a vendor, and some were not concerned with aesthetics.

Risa Horowitz, Belmont resident, suggested screening or camouflage for the equipment boxes. She requested information regarding the ability to use the program for enforcing speed.

Sergeant Halleran responded that the technology exists for photo speed enforcement, but that this has not been accepted by the courts. The City of San Jose is using this as an advisory tool only. He noted that the equipment can also be used to perform intersection gridlock enforcement to alleviate blocked intersections when the red light comes on.

Council concurred to pursue this program using Nestor as a vendor, to schedule a future presentation, and to include speed enforcement as an option.

Councilmember Lieberman also requested information regarding why cities chose other vendors.

NEW BUSINESS

Report on Belmont Citizens Academy

Interim City Manager Cassingham stated that the goal of a citizen's academy is to develop interest in local government, and to increase public involvement. She reviewed similar programs in other cities, and noted that the programs vary widely. She noted this could be a value to the community. She reviewed the costs for developing a program for Belmont, including initial staff time and expenses.

Mayor Mathewson stated he would like to pursue the program, and recommended placing this item on the Priority Calendar.

Councilmember Warden concurred regarding pursuit of an academy, but expressed concern regarding the amount of staff time this would require.

Council concurred to place this item on the Priority Calendar for future consideration.

Report on Council Committee Structure and Protocol

Interim City Manager Cassingham stated that the creation of a council committee structure could define and better manage the City Council's work load, and address staff concerns and communications. It could also help develop individual Councilmember expertise in a variety of areas. She noted that some current Council assignments may overlap the proposed structure.

Councilmember Dickenson stated that such a structure helps to organize two-way communication and focus on reporting out Council assignments. It is a means to share information in a public process so all will understand. This structure could also streamline the Council meetings to avoid the late nights.

Councilmember Warden stated that time is a problem and some issues cannot be addressed in the early, formative stages. There is not a need to spread the work around equally. Some issues are complicated. It takes three votes to be assigned to a subcommittee, and a Councilmember should not be assigned to a subcommittee because he or she does not have enough to do.

Councilmember Feierbach noted that Council assignments are reorganized annually. She suggested postponement of this item for future dialog.

Councilmember Lieberman stated that this issue is not one of leveling the work load or to create a pecking order. He expressed concern that some issues are very time consuming and may affect the amount of attention on other issues. There is a desire for efficiency and effectiveness. This structure could enhance expertise and begin the thought process.

In response to Councilmember Feierbach, City Attorney Zafferano described the difference between an ad hoc committee and a standing committee. A standing committee is required to comply with Brown Act noticing requirements, and some of the proposed committees may fall under this requirement.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to table this item to a date uncertain.

ADJOURNMENT at this time, being 10:15 p.m. this meeting was Adjourned to Continued Closed Session, Item E (continued from earlier).

CONTINUED CLOSED SESSION

- E. Conference with Legal Counsel, Anticipated Litigation. Significant exposure to litigation pursuant to Government Code Sec. 54956.9(b). One case

Attended by Councilmembers Feierbach, Warden, Dickenson, Lieberman, Mathewson, Interim City Manager Cassingham, City Attorney Zafferano. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 11:05 p.m. this special meeting was Adjourned.

Terri Cook

Belmont City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 639 (Closed Session not taped)
Minutes approved 7/25/2006